

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



David J. Stute, Director
Legislative Council Staff
(608) 266-1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

CLEARINGHOUSE RULE 96-086

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

2. Form, Style and Placement in Administrative Code

a. In the treatment clause to SECTION 1, “(1)” should replace “(2)”. Also, the title of s. NR 439.01 should not be shown.

b. Throughout the rule, numerous provisions end with a semicolon or the words “or” or “and.” These should all be replaced by periods. [See s. 1.03 (intro.), Manual.] The introductory material that leads into these provisions should use a phrase such as “all of the following” or “any of the following,” thus eliminating the need to use “and” or “or,” respectively. For example, see s. NR 460.02 (8) and (9).

c. The last sentence in s. NR 460.07 (5) (c) 5. b. should be included in a separate subdivision paragraph c., and “the preceding 2 sentences” should be replaced by a cross-reference to “subd. par. b.”

d. Most of the subdivisions in the rule do not have titles. There does not appear to be a reason to include subdivision titles in s. NR 460.07 (6) (e).

e. In s. NR 460.09 (2) (b) 1. and elsewhere in the rule, “i.e.” should be deleted and the text that follows should be worked into the remainder of the rule. This comment also applies to the use of “e.g.” throughout the rule; this could be replaced by “including.”

f. In s. NR 460.09 (5) (c) 6. i., the slash mark should be replaced by “or”.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. New ch. NR 460 contains numerous references to chs. NR 461 to 469. This is confusing because these chapters have not been adopted yet, although it is the department's intention to do so in the future. The department should provide a clear statement in the Note after s. NR 460.01 as to the proposed contents of chs. NR 461 to 469 and the schedule for promulgating the rules.

b. The Note after s. NR 460.01 (1) should indicate how to contact the Bureau of Air Management and the Environmental Protection Agency.

c. A number of the definitions in s. NR 460.02 define terms that are also defined either in s. NR 400.02 or s. 144.30, Stats. The rule does not indicate how the definitions in s. NR 460.02 relate to these other definitions. For example, see the definitions of "affected source," "alternative test method" [compared to "alternative method" in s. NR 400.02 (9)], "major source," "new source" and "stationary source."

d. Section NR 460.02 (6) could be improved by indicating who is the other party to the contractual obligation with the owner or operator.

e. The term "unaffected stationary source" is used in s. NR 460.02 (32) and at several other places in the rule. The term "affected source" is defined, but not "unaffected source." It would be better to use a phrase such as "source that is not an affected source" rather than "unaffected source."

f. Similarly, at a number of places, the rule combines various defined terms. For example, see s. NR 460.05 (3) (c) 1., which combines "affected source," "existing source" and "area source" into a single term. A better approach might be to rewrite this as "area source that is an existing source and is not an affected source."

g. In s. NR 460.06 (7) (c) 1., at the end of the fourth line, "an" should replace "a".

h. The rule uses a number of acronyms, such as "BACT," "LAER," "CMS," "CEMS," "CD" and "QA." The rule is drafted by using the full term once, followed by the acronym in parentheses, with the acronym used thereafter. This is unacceptable drafting practice, because it is difficult to locate the first occurrence of the term, in order to determine the meaning of the acronym. A better approach is to include a list of acronyms used in the rule in a section after the definition section. Alternatively, the full terms and the acronyms can be included in the definition section. The department should also consider whether the use of these acronyms is necessary. Most of them occur infrequently in the rule, and use of the acronym saves very little length in the rule and, in most cases, does not contribute to an understanding of the rule.

i. "Checklist" is accepted English usage and does not require quotes, as in s. NR 460.09 (2) (b) 5.